

REMARKS / ARGUMENTS

In complete response to the Office Action dated May 17, 2005, on the above identified application, reconsideration is respectfully requested. Claims 11, 12, 14, 17-20, and 22-40 are pending in this application.

With this amendment, claims 11, 27 and 30 have been amended. Claims 12 and 32 have been cancelled.

Claim Rejections Under 35 U.S.C. § 103:

Claims 11, 12, 14, 17, 18, 19, 20, 22, 27, 29, 30, 32, 33, 34, 35, 36, 37, and 38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Russel, Sr. et al. (US 5,099,837) in view of Jonsson et al. (US 3,741, 208). The Applicants respectfully contend that, for the following reasons, this rejection deserves reconsideration.

The Applicants respectfully contend that one of ordinary skill in the art would not find the motivation to combine these references. Jonsson '208 describes a **large and heavy apparatus** intended only for stationary use (such as in a hospital for anaesthesia purposes), while Russel '837 deals with a **portable device** used to provide oxygen at various locations to wounded people. One of ordinary skill in the art would **not find the motivation to combine** the portable oxygen device of Russel '837, with the large, stationary apparatus of Jonsson '208.

Furthermore, the Applicants also respectfully contend that the combination of Russel '837 with Jonsson '208 neither teaches nor suggests the specific internal gas circuit, as claimed in amended claim 11, which operates to form a fluidic connection between an internal orifice which is connected to a low-pressure outlet connector of a pressure reducing valve and an outlet orifice through which the gas is delivered to a patient circuit so as to regulate the proportion of gas delivered to the patient circuit, where said valve is controlled by a control means cooperating with said man/machine interface.

The device disclosed by Jonsson '208 has as a principle element a **bellows** which acts as **both a reservoir and as a pressure reducing valve** (col. 3, lines 8 - 9 and lines 16 - 17). Therefore, Jonsson '208 cannot be combined with Russel '837 to teach providing an **internal gas circuit on a respiratory ventilator with a proportional valve to regulate** gas delivered to the patient circuit.

This is because, Jonsson '208 discloses providing gas to the device 1 via a **non-return valve**, which has the purpose of supplying a constant working pressure to the lung ventilator, whereas the instant application teaches a gas pressure reducing valve to control the flow rate and pressure of the gas. On the patient circuit, the bellows of Jonsson '208 acts as a **pressure reducing valve**, but **not as a proportional valve** as is taught by the instant application.

Furthermore, Jonsson '208 discloses both **maintaining** the volume of gas within the bellows at about half its maximum level, and exposing the bellows to a **constant compressive force** which is independent of its filling degree (col. 3, lines 8-16). Since these levels are constant, a person of ordinary skill in the art would not understand Jonsson '208 to be teaching the use of a **proportional valve** able to regulate the gas to be delivered to the patient circuit.

To summarize the above arguments schematically:

Jonsson (US'208):

non-return valve \Rightarrow is used to supply constant pressure in the internal circuit

+

pressure reducing valve \Rightarrow is used to supply constant pressure in the patient circuit

whereas

Instant application:

pressure reducing valve \Rightarrow is used to control the flowrate in addition to the pressure in the internal circuit

+

proportional valve \Rightarrow regulate the gas delivered to the patient (both flowrate and pressure).

Additionally, Jonsson '208 neither discloses nor suggests a flowrate sensor or a pressure sensor to monitor the gas in the **internal circuit**. The monitoring unit (5) of Jonsson '208 monitors the pressure of the gas in the **patient circuit**, and the expired volume of respiration gas. Since Jonsson '208 fails to suggest these sensors for

measuring the flowrate and pressure of the gas in the internal circuit or a proportional valve in the internal circuit, it **fails** to suggest an apparatus for permitting **automatic control** and regulation of an internal proportional valve with respect to flowrate and pressure.

As a person of ordinary skill in the art would not find the suggestion to combine Russel '837 with Jonsson '208, nor would they find that the combination of the two teaches or suggests each and every limitation of the current application, the Applicants respectfully contend that the basis for this rejection deserves reconsideration.

Claims 23, 24, 25, 26, 28, 31, 39, and 40 currently stand rejected under 35 U.S.C. 103(a) as being unpatentable over Russel, Sr. et al (US 5,099,837) in view of Dubois et al. (US 6,520,176). The applicants respectfully contend that, for the following reasons, this rejection deserves reconsideration.

The Applicants respectfully contend that the combination of Russel '837 with Dubois '176 neither teaches nor suggests an internal gas circuit which forms a fluidic connection between an internal orifice which is connected to a low-pressure outlet connector of a pressure reducing valve and an outlet orifice through which the gas is delivered to a patient circuit so as to regulate the proportion of gas delivered to the patient circuit, where said valve is controlled by a control means cooperating with said man/machine interface. Such an internal gas circuit is taught by amended claim 11 of the instant application, upon which claims 23, 24, 25, and 26 depend. This circuit is also taught by amended claim 27, upon which claim 28 depends. Likewise, this circuit is taught by amended claim 30, upon which claims 31 and 40 depend.

Claim 39 currently stands rejected, however the Examiner's comments fail to state grounds for this rejection. The Applicants are unsure as to how to proceed with regard to this rejection.

As a person of ordinary skill in the art would not that the combination of Russel '837 with Dubois '176 teaches or suggests each and every limitation of the current application, the Applicants respectfully contend that the basis for this rejection deserves reconsideration.

CONCLUSION

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited. Should the Examiner believe a telephone call would expedite the prosecution of the application, he is invited to call the undersigned attorney at the number listed below.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17th day of August, 2005.


Diana Guzman